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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,619	01/04/2006	Gunnar Bjertnaes	MEISS91.001APC	7613

20995 7590 10/01/2010  
KNOBBE MARTENS OLSON & BEAR LLP  
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IRVINE, CA 92614

EXAMINER
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RESTIFO, JEFFREY J

ART UNIT	PAPER NUMBER
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3618

NOTIFICATION DATE	DELIVERY MODE
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10/01/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/535,619	<b>Applicant(s)</b> BJERTNAES, GUNNAR	
	<b>Examiner</b> Jeffrey J. Restifo	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20,21,24-30 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20,21,24-30 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/17/10, 2/9/10</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/17/10 has been entered.

### ***Claim Objections***

2. Claim 30 is objected to because of the following informalities: Claim 30, line 1 recites the term "nipple-like" and "stud-like", which are indefinite and should be removed. Appropriate correction is required.

### ***Response to Amendment***

3. The declaration under 37 CFR 1.132 filed 9/17/10 is insufficient to overcome the rejection of claim 20 based upon Szafranski et al. and Bronson as set forth in the last Office action because: The placing of Olympians does not have a direct reflection of the equipment used. A new rejection has been set forth below.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 20, 21, 24-30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bejean et al. (US 5,029,889 A).

3. With respect to claims 20, 26, Bejean et al. discloses a cross country ski 1 comprising a binding 3 and binding plate 7, 8, 9, 10 which can be glued to the upper surface of the ski, as shown in figures 1-2 and recited in col. 2, lines 1-2. Bejean et al. does not disclose the thickness of the glue layer. The thickness of the adhesive layer is not considered patentable unless it produces an unexpected result, and it would have been obvious to make the adhesive layer under 5-10% of the binding plate of Bejean et al.

4. With respect to claims 21 and 32, the material used to make the binding plate is not considered patentable unless it produces an unexpected result and it would have been obvious to one having ordinary skill in the art at the time of the invention to have made the binding plate of Bejean et al. of any well-known material in order to acquire the materials inherent properties.

5. Claims 25 and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bejean et al., as applied to claim 20 above, and further in view of Loughney (US 4,322,090 A).

Bejean et al. does not disclose the binding plates as having a connection piece. Loughney does disclose a cross-country two-piece binding plate 32, 34 with thinner, displaceable connecting piece 30, as shown in figures 1-12. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the binding Bejean et al. with the connecting piece of Loughney in order to increase the rigidity between the binding plates.

### ***Response to Arguments***

6. Applicant's arguments with respect to claim 20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (571) 272-6697. The examiner can normally be reached on Monday-Thursday 10am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571)272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey J Restifo  
Primary Examiner  
Art Unit 3618

/Jeffrey J Restifo/  
Primary Examiner, Art Unit 3618